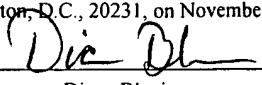


#4

CERTIFICATE OF MAILING BY "FIRST CLASS MAIL"

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an enveloped addressed to:
Box DAC, Assistant Commissioner for Patents, Washington, D.C., 20231, on November 20, 2002.


Diane Blevins



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Gregory S. Keller

Serial No.: 09/634,038

Filing Date: August 8, 2000

For: AUGMENTATION AND REPAIR OF
VOCAL CORD TISSUE DEFECTS

Examiner: Unassigned

Group Art Unit: Unassigned

RECEIVED

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OFFICE OF PETITIONS

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)**

Box DAC
Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

Applicant petitions for revival of the above-referenced application.

Nature of abandonment:

- ☒ In an office communication from the PTO dated August 5, 2002, the undersigned has noted that the above-referenced application is being forwarded to the Abandoned Files because applicant's response to the Official Action mailed September 29, 2000 had not been received within the statutory period or any extension requested therefor.
- ☒ The undersigned has reviewed her records and noted that the response to the Official Action mailed September 29, 2000, which was never received, was not timely filed within the statutory period or any extension requested therefor.

This application became abandoned because the failure to prosecute was an unintentional delay.

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sd-107153

The following represents a summary of the prosecution of the subject application as known by the undersigned:

1. On August 8, 2000, Carol Larcher of Leydig, Voit & Mayer, Ltd., filed the within application with the U.S. Patent and Trademark Office on behalf of applicant Gregory S. Keller.
2. On March 28, 2001, Patent Paralegal, Elizabeth M. Campbell of Leydig, Voit & Mayer, Ltd., ("Leydig") mailed correspondence to Ken Aldridge of PacGen, the intended assignee of the application, which specifically stated: "There are no actions pending in U.S. Application No. 09/634,038." A copy of this correspondence is attached hereto as Exhibit "A".
3. On October 25, 2001 a Revocation of Prior Power of Attorney and Power of Attorney and Prosecution by Assignee under 37 C.F.R. §3.71 was filed with the U.S. Patent and Trademark Office thereby revoking Leydig's granted powers of attorney and appointing the undersigned and various other counsel of Morrison and Foerster as its current attorneys of record.
4. Thereafter, on December 5, 2001, a Status Inquiry was filed by the undersigned with the U.S. Patent and Trademark Office.
5. On August 5, 2002 a Notice of Abandonment was received which stated: "The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on September 29, 2000."
6. Leydig was contacted via telephone and correspondence to ascertain that they never received the Notice to File Missing Parts dated September 29, 2000.

Based on the foregoing, the correspondence written to PacGen by Elizabeth M. Campbell of Leydig, Voit & Mayer, Ltd., nearly six (6) months after the Notice to File Missing Parts was allegedly mailed to that firm provides evidence that the previous law firm never received the Notice to File Missing Parts.

The entire delay in filing the required reply to the Notice to File Missing Parts due November 29, 2000 until the filing of a grantable petition under 37 C.F.R. § 1.137(b) was unintentional.

Applicant respectfully requests that this petition be granted and that the Notice to File Missing Parts and Filing Receipt be mailed directly to the undersigned in order for applicant to promptly respond therein.

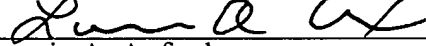
Please charge \$1,280.00 for payment of the fee for the within Petition to **Deposit Account No. 03-1952**. The Assistant Commissioner is hereby authorized to charge any additional fees under 37 C.F.R. §§ 1.16 and 1.17 that may be required by this petition, or to credit any overpayment, to **Deposit Account No. 03-1952**. A duplicate copy of this petition is enclosed for that purpose.

In addition, a Combined Declaration and Power of Attorney from the inventor, Gregory S. Keller, is attached hereto.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Respectfully submitted,

Dated: November 20, 2002

By: 
Laurie A. Axford
Registration No. 35,053

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